

Notice of Allowability

Application No.

10/765,028

Examiner

Phi D. A

Applicant(s)

KINZER, DWIGHT ERIC

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the telephone interview of 11/1/2007 and after final of 11/9/07.
2. ☒ The allowed claim(s) is/are 1-55, 57.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>11/21/07</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Election/Restrictions

1. Claims 1, 44, 50-51, 57 are allowable. The restriction requirement to the different species figure 5a, figure 5bl, figure 5b2, figure 5b3, figure 5b4, figure 5b5, figure 5b6, figure 5b7, figure 5b8, figure 6d, figure 6b 1, figure 6b2, figure 6b3, figure 6b4 figure 6b5; figure 6b6, figure 6b7, figure 6b8, figure 6b9, figure 6cl, figure 6c2, figure 6c3, figure 6c4, figure 7a, figure 7b, figure 7c, figure 7d, figure 8a, figure 8b, figure 8c, figure 8d, figure 9a, figure 9b, figure 9c, figure 9d, Application/Control Number: 10/765,028 Page 3 Art Unit: 3637 figure 9e, figure 9f, figure 10a, figure 11a, figure 12a, figure 13a, figure 14, figure 15a, figure 16a, figure 17a, figure 18, figure 19, figure 20, figure 21, figure 22, figure 23a, figure 24a, figure 25, figure 27a, figure 28, figure 29, figure 30a, as set forth in the Office action mailed on 3/21/06, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 3-11, 17-18, 25-26, 30, 46 directed to species non-elected, no longer withdrawn from further consideration because the claims require all the limitations of an allowable generic linking claim as required by 37 CFR 1.141.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lori Cuomo on 11/21/07.

The application has been amended as follows:

Claim 4 line 1, after " The", insert --- structural ---

Claim 5 line 1, after " The", insert --- structural ---

Claim 7 line 1, replace [spacer plate], with --- structural column ---

Claim 8 line 1, replace [spacer plate], with --- structural column ---

Claim 9 line 1, replace [spacer plate], with --- structural column ---

Claim 17 line 1, after " The", insert --- structural ---

Claim 18 line 1, after " The", insert --- structural ---

Claim 26 line 1, replace [wall splice panel], with --- structural column ---

Claim 27 line 1, replace [column-of] with --- column of ----

Claim 30 line 1, after " The", insert --- structural ---

Claim 45 line 1, after " The", insert --- structural ---

Claim 46 line 1, after " The", insert --- structural ---

Claim 47 line 1, after " The", insert --- structural ---

Claim 48 line 1, after " The", insert --- structural ---

Claim 49 line 1, after " The", insert --- structural ---

Allowable Subject Matter


2. Claims 1-55, 57 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A 

11/21/07


RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER

52/194

4/28

FIG. 4

